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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT TACOMA

8 DANIEL W. DANCER,

9 Plaintiff,

10 v.

11 JON JESKE, *et al.*,

12 Defendants.
13

Case No. 09-5153 BHS/KLS

14 REQUEST FOR
15 ORDER DENYING WRIT OF
16 MANDAMUS

17 This civil rights action has been referred to United States Magistrate Judge Karen L.
18 Strombom pursuant to Title 28 U.S.C. § 636(b)(1) and Local MJR 3 and 4. Plaintiff has been
19 granted leave to proceed *in forma pauperis*. Plaintiff's complaint has not yet been served. Before
the Court is Plaintiff's "writ of mandamus." Dkt. # 4. Having carefully reviewed Plaintiff's writ
and balance of the record, the Court finds, for the reasons stated below, that the writ should be
denied.

20 I. DISCUSSION

21 The federal mandamus statute provides that "[t]he district courts shall have original
22 jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United
23 States or an agency thereof to perform a duty owed to the plaintiff." 28 U.S.C. § 1361. Mandamus
24 is an extraordinary remedy. *Barron v. Reich*, 13 F.3d 1370, 1374 (9th Cir. 1994). A writ of
25 mandamus is appropriately used only when (1) the petitioner's claim is "clear and certain"; (2) the
26 respondent official's duty to act is ministerial and (3) no other adequate remedy is available. *Id.*
27 (citing *Fallini v. Hodel*, 783 F.2d 1343, 1345 (9th Cir. 1986)).

1 Here Plaintiff asks the court to issue an order directing the Lewis County Correctional
2 Facility to "produce and deliver to the Plaintiff in custody, legal materials and legal books pursuant
3 to his action against DFW officer Jon Jesche 'color of law' violation of plaintiffs civil rights." Dkt.
4 # 4, p. 1.

5 The extraordinary remedy of mandamus is not appropriate to compel the type of relief
6 sought by Plaintiff in this lawsuit. The district court does not have jurisdiction to issue a writ of
7 mandamus to state officers. *Demos v. United States Dist. Court for E. Dist. Of Wash.*, 925 F.2d
8 1160, 1161 (9th Cir. 1991).

9 Accordingly, Plaintiff's request for mandamus (Dkt. # 4) is **DENIED**. The Clerk is directed
10 to send copies of this Order to Plaintiff.

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12 DATED this 27th day of ^{April} May, 2009.

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15 Karen L. Strombom
16 United States Magistrate Judge
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